

INCORPORATED COUNTY OF LOS ALAMOS CODE ORDINANCE NO. 85-284

AN ORDINANCE AMENDING CHAPTER 2.33 OF THE CODE
OF THE INCORPORATED COUNTY OF LOS ALAMOS RELATING TO
DEPOSIT AND INVESTMENT OF COUNTY FUNDS, AUTHORIZING THE
INVESTMENT OF COUNTY FUNDS IN THE NEW MEXICO STATE
TREASURER'S LOCAL SHORT-TERM INVESTMENT FUND
AND THE NEW MEXICO STATE INVESTMENT COUNCIL'S LONG-TERM
INVESTMENT FUNDS, AND CLARIFYING AND UPDATING DEFINITIONS
AND OTHER PROVISIONS CONCERNING INVESTMENTS

BE IT ENACTED BY THE INCORPORATED COUNTY OF LOS ALAMOS:

Section 1. Chapter 2.33 of the Code of the Incorporated County of Los Alamos is amended to read as follows:

2.33.020 Definitions. As used in this chapter:

- A. Financial institution means a federally insured bank or savings and loan association.
- B. Investment officer means the finance manager or his designee.
- C. Local financial institution means those qualified financial institutions whose main office or manned branch office is located within the county corporate limits.
- D. Net worth is as defined by the financial institutions division of the regulation and licensing department of the state of New Mexico.
- E. Qualified financial institution means a financial institution which meets all of the following requirements to qualify as a depository for the county:
 - 1. Equity-to-asset ratio is equal to or greater than the level recommended by the federal deposit insurance corporation;
 - 2. A current audited annual financial statement has been submitted to the county;
 - 3. No successive losses for two preceding years;
 - 4. If not a local financial institution, its assets must be in excess of one billion dollars;and,
 - 5. Not operating under a letter of agreement or cease and desist order issued by any regulatory agency.
- F. SIPC means security investment protection corporation.
- G. Special county funds means the capital projects permanent fund, the expenditures fund for capital projects, and the government operations assistance permanent fund.
- H. Time deposit means a certificate of deposit or savings certificate deposited in a federally insured bank or savings and loan association.
- I. U. S. government obligations means bonds, notes or other obligations of the United States government, its agencies, government-sponsored enterprises, corporations or instrumentalities and that portion of bonds, notes or other obligations guaranteed as to principal and interest and issued by the United States government, its agencies, government-sponsored enterprises, corporations or instrumentalities or issues pursuant to acts or programs authorized by the United States government.
- J. Repurchase agreement means a contract for the present purchase and resale at a specified time in the future of specific securities at specified prices, which price differential represents investment income.
- K. Qualified repurchase agreement provider means a bank, investment banking firm, or insurance company whose long-term debt obligations (or claims-paying ability) are rated in one of the top two rating categories by Moody's Investors Service, Inc. and Standard & Poor's Corporation.

2.33.030 Policy declarations. A. County funds shall be invested by the investment officer in an effort to:

1. Maximize investment returns while minimizing risk;
2. Maintain a level of liquidity to ensure meeting unanticipated cash needs;
3. Allow for diversification of the county's portfolio;
4. Recognize the impact of the county's investment program on the local economy; and
5. Minimize the amount of money in noninterest-bearing accounts.

B. The criteria for selecting investments shall be in the following order of priority:

1. Safety;
2. Liquidity; and
3. Yield.

C. The standard of prudence to be applied by the investment officer shall be the prudent investor rule, which is: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment considering the probable safety of their capital as well as the probable income to be derived." The prudent investor rule shall be applied in the context of managing the overall investment portfolio.

D. The investment officer, acting in accordance with the county investment policy as approved by the county council and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported and that appropriate action is taken to control adverse developments.

E. Allowed Investment Instruments. The investment officer may invest county funds in the following types of accounts, securities, and instruments:

1. U.S. government obligations;
2. Bonds or negotiable securities of the state of New Mexico or of any county, municipality, or school district within the state of New Mexico which has a taxable valuation of real property for the last preceding year of at least one hundred million dollars and has not defaulted in the payment of any interest or sinking fund obligation and has not failed to meet any bonds at maturity at any time within five years last preceding; and
3. Time deposits in a qualified financial institution, and subject to the following:
 - a. In placing time deposit moneys, preference shall be given to the local qualified financial institutions whenever competing bids from out-of-town qualified financial institutions do not exceed the highest bid from the local qualified financial institutions by twenty-five basis points.
 - b. The total of time deposits with any qualified financial institution shall not at any time exceed the net worth of said financial institution.
4. Interest-bearing checking accounts in qualified financial institutions.
5. Time deposits or interest bearing checking accounts in any non-qualified financial institution up to the amount of federal deposit insurance coverage.
6. New Mexico state treasurer's local short-term investment fund.
7. New Mexico state investment council's long-term investment funds.

F. Security for Deposits. Any qualified financial institution designated as a county depository shall deliver securities of the type specified in Section 6-10-16 N.M.S.A., 1978, or a joint safekeeping receipt therefor, to the investment officer in an aggregate value equal to one-half of the amount of the county money to be received, in accordance with subsection B of Section 6-10-16 N.M.S.A., 1978.

G. Safekeeping of Securities.

1. No county funds to be invested in negotiable securities shall be paid out unless there is a simultaneous transfer of securities either by physical delivery or, in the case of uncertificated securities, by appropriate book entry on the books of the issuer, to the county or to a third party safekeeping financial institution acting as agent or trustee for the county, which agent or trustee shall furnish timely confirmation to the county. An investment management firm under contract with the county shall not also act as custodian for any securities purchased for the county.

2. Notwithstanding the provisions of paragraph 1 of this subsection, securities may be held in street name with an SIPC-insured broker or dealer at a level not to exceed the amount of the SIPC insurance plus the amount of insurance provided by an insurance company which has received an A+ rating by A.M. Best & Company.

2.33.040 Investment management--Contracts with private firms. A. The county may contract with one or more investment management firms to advise the investment officer and pay reasonable compensation for such services from funds so invested. The terms of any investment management services contract shall incorporate the county charter, code, policies, procedures and other legal requirements for investment of funds.

B. The utilities board may join with the investment officer in utilizing the services of any such investment management firm or firms under such terms and conditions as are mutually agreed to, subject to the policies, procedures and requirements specified in this chapter.

2.33.050 Investment of county funds in repurchase agreements. In addition to any other investment permitted under this chapter, amounts held in any county fund may be invested in repurchase agreements having a term not exceeding twenty-five years; provided, that the county (or the county's bond trustee) shall enter into a repurchase agreement only with financial institutions which constitute a qualified repurchase agreement provider at the time of the execution and delivery of the repurchase agreement.

2.33.060 Collateralization of repurchase agreements. Each repurchase agreement shall provide that the obligations of the qualified repurchase agreement provider under a repurchase agreement shall be fully collateralized by delivery against payment of U. S. treasury obligations or U. S. government agency obligations to a mutually agreeable independent custodian which shall be equal in market value (to be determined at least quarterly) to at least one hundred two percent of the investment amount under the repurchase agreement.

Section 2. Severability. Should any section, paragraph, clause or provision of this Ordinance, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. This Ordinance shall become effective thirty (30) days after publication of notice of its adoption.

PASSED AND ADOPTED this 3rd day of October, 2000.

**COUNCIL OF THE INCORPORATED
COUNTY OF LOS ALAMOS**

/s/ Lawry W. Mann
Lawry W. Mann
Council Chair

ATTEST:

/s/ Nita K. Taylor
Nita K. Taylor
Los Alamos County Clerk